

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CHARLENE CARTER,

Plaintiff,

v.

SOUTHWEST AIRLINES CO., AND
TRANSPORT WORKERS UNION
OF AMERICA LOCAL 556,

Defendants.

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Civil Action No. 03:17-cv-02278-S

REPLY DECLARATION OF MICHELE HAYDEL GEHRKE

I, Michele Haydel Gehrke, declare as follows:

1. I am a Partner at Reed Smith LLP and counsel for Defendant Southwest Airlines Co. (“Southwest”) in the above-captioned action. I have personal knowledge of the facts stated in this declaration and if called to testify, could competently testify thereto.

2. On March 13, 2013, Plaintiff’s counsel, Matthew Gilliam, sent me an email with a proposed joint stipulation that purported to excuse Southwest from responding to certain portions of the Third Amended Complaint. A true and correct copy of Gilliam’s correspondence and the attached proposed stipulation is attached hereto as **Exhibit A**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in San Francisco, California on March 28, 2019.

/s/ Michele Haydel Gehrke
Michele Haydel Gehrke

Exhibit A

Morris, Brian K.

From: Matthew B. Gilliam <mbg@nrtw.org>
Sent: Wednesday, March 13, 2019 8:44 AM
To: Gehrke, Michele Haydel; Jeff D. Jennings; agreenfield@candglegal.com
Cc: Morris, Brian K.; Jason Winford
Subject: RE: Carter's Third Amended Complaint
Attachments: Joint Stipulation regarding Third Amended Complaint.docx

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL E-MAIL

Good morning, everyone.

Yesterday I spoke with Michele about drafting a joint stipulation as described below. With your permission, I can file a stipulation to make it clear that Defendants need not respond to the claims that were dismissed.

Thanks,
Matt

Matthew B. Gilliam

Staff Attorney (*admitted and licensed to practice only in New York and West Virginia*)
c/o National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Ste. 600, Springfield, VA 22160
O: 703-770-3339 F: 703-321-9319
Email: mbg@nrtw.org Web: www.nrtw.org

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From: Matthew B. Gilliam
Sent: Thursday, March 7, 2019 3:50 PM
To: 'Gehrke, Michele Haydel'; Jeff D. Jennings; agreenfield@candglegal.com
Cc: Morris, Brian K.; Jason Winford
Subject: RE: Carter's Third Amended Complaint

Michele,

If you would like, we could prepare a joint document stipulating that certain claims in the Third Amended Complaint were dismissed with prejudice per the Court's order and that Defendants need not file an answer or other response to those claims. Let me know your thoughts.

Thanks,

Matt

Matthew B. Gilliam

Staff Attorney (*admitted and licensed to practice only in New York and West Virginia*)
c/o National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Ste. 600, Springfield, VA 22160
O: 703-770-3339 F: 703-321-9319
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From: Gehrke, Michele Haydel [mailto:MGehrke@reedsmith.com]
Sent: Thursday, March 7, 2019 12:43 PM
To: Matthew B. Gilliam; Jeff D. Jennings; agreenfield@candglegal.com
Cc: Morris, Brian K.; Jason Winford
Subject: RE: Carter's Third Amended Complaint

In my experience, when the Court dismisses entire counts and then Plaintiff is given leave to amend a different count, Plaintiff does not include the dismissed counts in the new amended complaint. They are out of the case and just creates confusion and more work. For example, when Defendants file their answer we have to respond paragraph by paragraph.

Michele Haydel Gehrke
+1 415-659-4798
mgehrke@reedsmith.com

ReedSmith LLP
101 Second Street
Suite 1800
San Francisco, CA 94105-3659
+1 415 543 8700
Fax +1 415 391 8269

From: Matthew B. Gilliam <mbg@nrtw.org>
Sent: Thursday, March 7, 2019 9:41 AM
To: Gehrke, Michele Haydel <MGehrke@reedsmith.com>; Jeff D. Jennings <jdj@nrtw.org>; agreenfield@candglegal.com
Cc: Morris, Brian K. <BMorris@reedsmith.com>; Jason Winford <jwinford@jenkinswatkins.com>
Subject: RE: Carter's Third Amended Complaint

EXTERNAL E-MAIL

Michele,

The only claim that was amended by the Third Amended Complaint was the DFR claim. Comporting with the Court's decision does not require omitting our other claims from the Amended Complaint, if that is what you are suggesting. If you are suggesting something else, feel free to explain. We do not see how the Complaint does not comport with the Court's decision on the motions to dismiss.

Thanks,
Matt

Matthew B. Gilliam

Staff Attorney (*admitted and licensed to practice only in New York and West Virginia*)

c/o National Right to Work Legal Defense Foundation, Inc.

8001 Braddock Road, Ste. 600, Springfield, VA 22160

O: 703-770-3339 F: 703-321-9319

Email: mbg@nrtw.org Web: www.nrtw.org

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From: Gehrke, Michele Haydel [<mailto:MGehrke@reedsmith.com>]

Sent: Thursday, March 7, 2019 12:33 PM

To: Matthew B. Gilliam; Jeff D. Jennings; agreenfield@candglegal.com

Cc: Morris, Brian K.

Subject: Carter's Third Amended Complaint

Matt and Jeff,

We have reviewed Carter's Third Amended Complaint and write to ask that you re-file a corrected version that comports with the Court's decision on the motions to dismiss. The Court dismissed Counts 1 and 2 with prejudice (RLA Section Third and Fourth) as well as Count 4 as to the Constitutional claims since Southwest and the Union are not state actors. Carter was only given leave to amend as to Count 3, the DFR claim. As drafted, the Third Amended Complaint is confusing as to the dismissed claims. Please let us know if you are willing to do so and we can figure out the best way to do it (stipulation or errata filing, etc). Thanks!

Michele Haydel Gehrke

+1 415-659-4798

mgehrke@reedsmith.com

Reed Smith LLP

101 Second Street

Suite 1800

San Francisco, CA 94105-3659

+1 415 543 8700

Fax +1 415 391 8269

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Dallas Division**

CHARLENE CARTER, Plaintiff, v. SOUTHWEST AIRLINES CO., AND TRANSPORT WORKERS UNION OF AMERICA, LOCAL 556, Defendants.	Civil Case No. 3:17-cv-02278-S JOINT STIPULATION REGARDING PLAINTIFF'S THIRD AMENDED COMPLAINT
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Plaintiff Charlene Carter (“Carter”), Defendant Southwest Airlines Co. (“Southwest”), and Defendant Transport Workers Union of America, Local 556 (“Local 556”) (collectively, “the Parties”), through their counsel of record, stipulate and agree as follows:

1. On March 1, 2019, Carter filed her Third Amended Complaint (Dkt. No. 70), to amend her Count III claim that Local 556 breached its duty of fair representation, pursuant to leave granted by the Court in its February 1, 2019 Memorandum Opinion and Order (Dkt. No. 69). Carter’s Third Amended Complaint includes claims that were dismissed with prejudice by the Court, which are included for purposes of preserving Carter’s rights on appeal.

2. Carter’s claims in Counts I and II of the Third Amended Complaint, and the unconstitutional retaliation claim in Count IV, were all dismissed by the Court with prejudice. Accordingly, Answers filed by Southwest and Local 556 need not respond to allegations set forth in ¶¶78-81 (Count I) and ¶¶86-92 (Count II) of the Third Amended Complaint. Further, Answers filed by Southwest and Local 556 need not respond to the allegations set forth in ¶¶108-118 (Count IV) of the Third Amended Complaint insofar as they plead unconstitutional retaliation

based on rights claimed under the U.S. Constitution. Those Answers shall only respond to Carter's allegations in ¶¶108-118 (Count IV) insofar as they concern Carter's statutory retaliation claims related to the exercise of RLA-protected rights.

DATED: March 13, 2019

Respectfully submitted,

By: s/ Jason Winford (with permission)

David E. Watkins

Texas Bar No. 20922000

dwatkins@jenkinswatkins.com

Jason E. Winford

Texas Bar No. 00788693

jwinford@jenkinswatkins.com

JENKINS & WATKINS, P.C.

4300 MacArthur Avenue, Ste. 165

Dallas, Texas 75209

Tel: 214-378-6675

Fax: 214-378-6680

By: s/ Matthew B. Gilliam

Matthew B. Gilliam (*pro hac vice*)

New York Bar No. 5005996

mbg@nrtw.org

Jeffrey D. Jennings (*pro hac vice*)

Virginia Bar No. 87667

jdj@nrtw.org

c/o National Right to Work Legal Defense
Foundation, Inc.

8001 Braddock Road, Suite 600

Springfield, Virginia 22160

Tel: 703-321-8510

Fax: 703-321-9319

Attorneys for Plaintiff

By: s/ Brian K. Morris (with permission)

Brian K. Morris

Texas Bar No. 24108707

bmorris@reedsmith.com

REED SMITH LLP

811 Main Street, Suite 1700

Houston, Texas 77002-6110

Tel: 713-469-3815

Fax: 713-469-3899

By: s/ Michele Haydel Gehrke (with permission)

Michele Haydel Gehrke (*pro hac vice*)

California Bar No. 215647

mgehrke@reedsmith.com

REED SMITH LLP

101 Second Street, Suite 1800

San Francisco, CA 94105-3659

Tel: 415-543-8700

Fax: 415-391-8269

Attorneys for Defendant Southwest Airlines Co.

By: s/ Adam S. Greenfield (with permission)

Edward B. Cloutman, IV

Texas Bar No. 24074045

edwardcloutman@gmail.com

Adam S. Greenfield

Texas Bar No. 24075494

agreenfield@candglegal.com

LAW OFFICE OF CLOUTMAN
& GREENFIELD, P.L.L.C.

3301 Elm Street

Dallas, Texas 75226-1637

Tel: 214-939-9222

Fax: 214-939-9229

*Attorneys for Defendant Transport Workers
Union of America, Local 556*

CERTIFICATE OF SERVICE

I certify that, on this day, the foregoing was electronically filed with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

By: /s/ Matthew B. Gilliam